



DAC ZHW

PATENT
Customer No. 22,852
Attorney Docket No. 08702.0081-02000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Man Sung Co et al.) Group Art Unit: 1644
)
Application No.: 09/626,731) Confirmation No.: 5819
)
Filing Date: July 27, 2000) Examiner: Gambel, P.
)
For: METHODS OF TRANSPLANTING)
CELLS BY CONTACTING)
DONOR CELLS WITH B7-1- AND)
B7-2-SPECIFIC)
IMMUNOGLOBULINS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT REGARDING PATENT TERM ADJUSTMENT

Applicants have received the Determination of Patent Term Adjustment Notice, accompanying the Notice of Allowance. This Notice indicated that the Patent Term Adjustment is 0 days. Applicants have also reviewed the Patent Term Adjustment History on record at the Office of Patent Legal Administration and enclose a copy with this filing.

While Applicants agree that the Patent Term Adjustment currently stands at 0 days, Applicants disagree with three of the Office's calculations.

First, the history records a 11 day Applicant delay in responding to the Restriction Requirement mailed September 27, 2001. Applicants filed a response to the Restriction

Requirement on November 7, 2001. Although this response was filed with an extension of time, and therefore after expiration of the initial one month deadline imposed in the Restriction Requirement, Applicants respectfully assert that it was filed within the three month period from date of mailing of the Office Communication established for purposes of patent term adjustment, and which constitutes engaging in reasonable efforts to conclude prosecution pursuant to 37 C.F.R. § 1.704(a). This timely submission is not reflected in the Patent Term Adjustment History on record at the Office of Patent Legal Administration. Applicants respectfully request that the 11 days of alleged Applicant delay be removed from that record.

Second, the non-final Office Action mailed April 1, 2002, was sent to Applicants more than four months after filing of a Response to the Restriction Requirement of September 27, 2001, which was filed on November 7, 2001. See 37 C.F.R. § 1.703(a). Consequently, the next Office communication should have been mailed within four months of that date, by March 7, 2002, but it was not mailed until April 1, 2002. The resulting 25 day Patent Office delay is not reflected in the Patent Term Adjustment History on record at the Office of Patent Legal Administration.

Finally, the history records a 28 day Applicant delay in responding to the Final Office Action mailed June 3, 2004, apparently based upon Applicants' filing of a Notice of Appeal on October 1, 2004. Because Applicants filed a Request for Continued Examination and Amendment on January 31, 2005, however, the Applicant delay in this case should be calculated based on that date. This 150 day Applicant delay is not

reflected in the Patent Term Adjustment History on record at the Office Patent Legal Administration. Applicants wish to bring this to the attention of the Office.

While these calculations do not currently result in a change in term adjustment, if the Office delayed issuing the patent, these calculations could become material. Therefore, Applicants request that the Office make these corrections.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 15, 2005

By: Rebecca M. McNeill
Rebecca M. McNeill
Reg. No. 43,796